

**CITY OF YACHATS
ORDINANCE NO. 336**

AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE CHAPTER 3.14 MARIJUANA AND MARIJUANA INFUSED PRODUCTS TAX, SECTION 3.14.050 – SELLER RESPONSIBLE FOR PAYMENT OF TAX AND SECTION 3.14.060 – PENALTIES

Whereas, City Council wishes to make the penalties consistent for all types of taxes charged; and

Whereas, the City has changed tax reporting from a paper based system to an online system, and the reporting forms have changed; and

Whereas, City Council discussed the changes in the penalties at their April 6, 2014 Work Session; and

Whereas, at the April 8, 2014 City Council directed staff to draft an Ordinance for adoption to amend the current Yachats Municipal Code;

NOW THEREFORE, the City of Yachats ordains Sections 3.14.050 and 3.14.060 shall be amended as follows:

Section 3.14.050 Seller responsible for payment of tax.

A. Every seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the city recorder, on forms provided by the city, specifying the total sales subject to this chapter for each month in the quarter on a separate line, with a total for the quarter. ~~and the amount of tax collected under this chapter.~~ Returns are delinquent on the first day of the month following (in the months of May, August, November and February). The seller may request or the city recorder may establish shorter reporting periods for any seller if the seller or city recorder deems it necessary in order to ensure collection of the tax. The city recorder may require further information in the return relevant to payment of the tax. A return is not considered filed until it is actually received by the city recorder.

B. The person required to file the return shall remit the amount of the tax due, to the tax administrator at his or her office, either by personal delivery or by mail before the last day of the month following each quarter of collection. ~~At the time the return is filed, the seller must remit to the city recorder the full amount of the tax collected.~~ Payments received by the city recorder for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the city. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

C. The city will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.

D. If the city recorder, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the city in a particular tax or factual situation, the city recorder may order such a change. The city recorder may establish shorter reporting periods for any seller if the city recorder deems it necessary in order to ensure collection of the tax. The city recorder also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all taxes collected pursuant to this chapter for the city's account until the seller makes payment to the city recorder. A separate trust bank account is not required in order to comply with this provision.

E. Every seller required to remit the tax imposed by this chapter is entitled to retain five percent of all taxes due to the city to defray the costs of bookkeeping and remittance.

F. Every seller must keep and preserve for a period of three years all such books, invoices and other records as may be necessary to determine the amount of such tax. The city recorder has the right to inspect all such records at all reasonable times. (Ord. 326 § 1, 2014)

Section 3.14.060 Penalties ~~and interest.~~

A. Any seller who fails to remit any portion of any tax imposed by this chapter within the time required must pay a penalty of 10% of the amount of the tax and a delinquency fee of \$100., in addition to the amount of the tax.

B. Any operator who fails to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay an additional ten percent (10%) for each thirty (30) day period the tax remains delinquent. ~~If any seller fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, the seller must pay a second delinquency penalty of 15% of the amount of the tax in addition to the amount of the tax and the penalty first imposed.~~

C. If the city recorder determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25% of the amount of the tax will be added thereto in addition to the penalties stated in subsections A and B of this section.

~~D. — In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter must pay interest at the rate one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.~~

~~D.~~ Every penalty imposed, ~~and any interest as accrues~~ under the provisions of this section, becomes a part of the tax required to be paid.

~~F.~~ All sums collected pursuant to the penalty provisions in subsections A and C of this section will be distributed to the city’s general fund.

~~G.~~ Penalties for certain late tax payments may be waived or reduced pursuant to policies and processes adopted by the city council. However, the city council is not required to create a penalty waiver or reduction policy. If the city council does not create a policy for waivers or reductions, no waivers or reductions are allowed. (Ord. 331, 2014; Ord. 326 § 1, 2014)

PASSED AND ADOPTED by the City Council of the City of Yachats on this _____ day of _____.

Ayes: _____ Nays: _____ Abstentions: _____ Absent: _____

APPROVED by the Mayor this ____ day of _____.

Attest:

Ronald L Brean, Mayor

Nancy Batchelder, City Recorder